Timberwood Panels Pty. Ltd.
ABN 56 161 640 302
We know what we're talking about!

Email: accounts@timberwood.com.au
Web: www.timberwood.com.au

HEAD OFFICE
76 - 106 National Blvd, Campbellfield VIC 3061
Telephone: (03) 8301 1300
Facsimile: (03) 8301 1333

BRANCH
185 Hammond Road, Dandenong South VIC 3175
Telephone: (03) 8780 4666
Facsimile: (03) 9798 7502

APPLICATION FOR COMMERCIAL CREDIT ACCOUNT (05/03)

To: Timberwood Panels Pty Ltd & all subsidiaries, divisions, affliates, related & associated companies, trusts & other entities and/or any successors and/or assigns ["Timberwood Panels"]:

CUSTOMER: State full name & A.C.N /A.B.N (if applicable)

["Customer"]

2. APPLICATION:
The Customer applies for a credit account & AGREES to be bound by Timberwood Panels' Terms and Conditions of Trade (as set out in this Application & as amended from time to time) in all dealings with Timberwood Panels.

3. CREDIT LIMIT REQUESTED: $

4. EXPECTED MONTHLY PURCHASES: $

5. ACCEPTANCE:
Timberwood Panels shall be deemed to have accepted this Application if it allows the Customer to trade with Timberwood Panels or any division or part of Timberwood Panels on credit.

6. MEANS & ABILITY:
The Customer WARRANTS that he/she/it is solvent & has the present & future ability to pay all debts as & when all debts fall due.

7. PURPOSE:
The Customer DECLARES & WARRANTS that Timberwood Panels' goods and/or services shall be used by the Customer predominately for commercial and/or business purposes (& not for any personal, domestic and/or household purpose).

8. OTHER DIVISIONS:
The Customer AGREES that this Application relates to all transactions with Timberwood Panels.

9. ACCOUNTS PAYABLE CONTACT: ..... Tel:.....

EMAIL ADDRESS: .....

A. WHERE THE CUSTOMER IS A PARTNERSHIP/SOLE TRADER:

Partners' or trader's full name(s) and private address(es)

Name	Address	Date of Birth	Private Telephone

B. WHERE THE CUSTOMER IS A COMPANY:

Company Name:		A.C.N
Address for correspondence		Postcode
Address for correspondence		Postcode

Directors' full names:

Name	Address	Date of Birth	Private Telephone

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C. TRADING DETAILS:

Trading name:

Business address: | Postcode

Address for correspondence:

Telephone: ( ) | Fax: ( )

Date business commenced: / / | ABN:

Email Address:

Trusts:

Is the Customer involved or associated in any way with a Trust:

□ Yes □ No

If yes, is the Trust a: □ unit Trust □ family Trust □ VV?

Insolvency:

Has the Customer or any partners or directors been insolvent or in any way involved with an insolvency administration?

(e.g. liquidation, receivership, administration, bankruptcy or Part, etc.)

□ Yes □ No

Type of Business: | How long established? | How long Current owner? | Government Instrumentality? □ Yes □ No

Name(s) of related subsidiary companies and/or partnership:.....

Are the business premises: □ owned □ leased?

Do you currently trade with Timberwood Panels? □ Yes □ No

Timberwood Sales Rep Name (if known) .....

Business Activity Statements (BAS) are lodged?

□ monthly □ quarterly

Date last BAS lodged? ...../...../.....

Financial details:

Bank: ..... Branch: ..... Phone ( ).....

Trade References:
(each must provide credit similar in value to level of credit sought):

Company: ..... Address: ..... Fax ( ).....

Company: ..... Address: ..... Fax ( ).....

Company: ..... Address: ..... Fax ( ).....

I certify that the above information is true and correct and that I am authorised to make this application for credit. I have read and understand the TERMS AND CONDITIONS OF TRADE (overleaf or attached) of Timberwood Panels Pty Ltd which form part of, and are intended to be read in conjunction with this Credit Account Application and agree to be bound by these conditions. I authorise the use of my personal information as detailed in the Privacy Act clause therein. ***I agree that if I am a director/shareholder (owning at least 15% of the shares) of the Customer I shall be personally liable for the performance of the Customer's obligations under this contract.***

SIGNED (CUSTOMER):_____

Name: _____

Position: _____

SIGNED (TIMBERWOOD PANELS):_____

Name: _____

Position: _____

WITNESS TO CUSTOMER'S SIGNATURE:

Signed: _____ Name:_____ Date: _____

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Personal/Directors Guarantee and Indemnity

IN CONSIDERATION of Timberwood Panels Pty Ltd and its successors and assigns ("Timberwood Panels") at the request of the Guarantor (as is now acknowledged) supplying and continuing to supply goods and/or services to

_____ ("the Customer") ***[Insert Company Name In Box Provided]***

I/WE (also referred to as the "Guarantor/s") UNCONDITIONALLY AND IRREVOCABLY:

1. GUARANTEE the due and punctual payment to Timberwood Panels of all moneys which are now owing to Timberwood Panels by the Customer and all further sums of money from time to time owing to Timberwood Panels by the Customer in respect of goods and services supplied or to be supplied by Timberwood Panels to the Customer or any other liability of the Customer to Timberwood Panels, and the due observance and performance by the Customer of all its obligations contained or implied in any contract with Timberwood Panels, including but not limited to the Terms & Conditions of Trade signed by the Customer and annexed to this Guarantee and Indemnity. If for any reason the Customer does not pay any amount owing to Timberwood Panels the Guarantor will immediately on demand pay the relevant amount to Timberwood Panels. In consideration of Timberwood Panels agreeing to supply the Goods to the Customer, the Guarantor charges all of its right, title and interest (joint or several) in any land, realty or other assets capable of being charged, owned by the Guarantor now or in the future, to secure the performance by the Guarantor of its obligations under these terms and conditions (including, but not limited to, the payment of any money) and the Guarantor acknowledges that this personal guarantee and indemnity constitutes a security agreement for the purposes of the Personal Property Securities Act 2009 ("PPSA") and unequivocally consents to Timberwood Panels registering any interest so charged. The Guarantor irrevocably appoints Timberwood Panels and each director of Timberwood Panels as the Guarantor's true and lawful attorney/s to perform all necessary acts to give effect to this clause including, but not limited to, signing any document on the Guarantor's behalf which Timberwood Panels may reasonably require to:
   (a) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
   (b) register any other document required to be registered by the PPSA or any other law; or
   (c) correct a defect in a statement referred to in clause 1(a) or 1(b).
2. **HOLD HARMLESS AND INDEMNIFY** Timberwood Panels on demand as a separate obligation against any liability (including but not limited to damages, costs, losses and legal fees calculated on a solicitor and own client basis) incurred by, or assessed against, Timberwood Panels in connection with:
   (a) the supply of goods and/or services to the Customer; or
   (b) the recovery of moneys owing to Timberwood Panels by the Customer including the enforcement of this Guarantee and Indemnity, and including but not limited to Timberwood Panels's nominees costs of collection and legal costs; or
   (c) moneys paid by Timberwood Panels with the Customer's consent in settlement of a dispute that arises or results from a dispute between, Timberwood Panels, the Customer, and a third party or any combination thereof, over the supply of goods and/or services by Timberwood Panels to the Customer.

I/WE FURTHER ACKNOWLEDGE AND AGREE THAT

3. **I/We have received, read and understood Timberwood Panels's Terms and Conditions prior to entering into this Guarantee and Indemnity and agree to be bound by those Terms and Conditions.**
4. This Guarantee and Indemnity shall constitute an unconditional and continuing Guarantee and Indemnity and accordingly shall be irrevocable and remain in full force and effect until the whole of moneys owing to Timberwood Panels by the Customer and all obligations herein have been fully paid satisfied and performed.
5. No granting of credit, extension of further credit, or granting of time and no waiver, indulgence or neglect to sue on Timberwood Panels's part (whether in respect of the Customer or any one or more of any other Guarantor(s) or otherwise) and no failure by any named Guarantor to properly execute this Guarantee and Indemnity shall impair or limit the liability under this Guarantee and Indemnity of any Guarantor. Without affecting the Customer's obligations to Timberwood Panels, each Guarantor shall be a principal debtor and liable to Timberwood Panels accordingly.
6. If any payment received or recovered by Timberwood Panels is avoided by law such payment shall be deemed not to have discharged the liability of the Guarantor, and the Guarantor and Timberwood Panels shall each be restored to the position in which they would have been had no such payment been made.
7. The term "Guarantor" whenever used in this Guarantee and Indemnity shall, if there is more than one person named as Guarantor, mean and refer to each of them individually and all of them together unless the context otherwise requires, and the obligations and agreements on the part of the Guarantor contained in this Guarantee and Indemnity shall bind them jointly and severally.
8. **I/We have been advised to obtain independent legal advice before executing this Guarantee and Indemnity. I/we understand that I/we am/are liable for all amounts owing (both now and in the future) by the Customer to Timberwood Panels.**
9. I/we irrevocably authorise Timberwood Panels to obtain from any person or company any information which Timberwood Panels may require for credit reference purposes. I/We further irrevocably authorise Timberwood Panels to provide to any third party, in response to credit references and enquiries about me/us or by way of information exchange with credit reference agencies, details of this Guarantee and Indemnity and any subsequent dealings that I/we may have with Timberwood Panels as a result of this Guarantee and Indemnity being actioned by Timberwood Panels.
10. The above information is to be used by Timberwood Panels for all purposes in connection with Timberwood Panels considering this Guarantee and Indemnity and the subsequent enforcement of the same.

GUARANTOR-1

SIGNED: _____

FULL NAME: _____

HOME ADDRESS: _____

DATE OF BIRTH: _____

SIGNATURE OF WITNESS: _____

NAME OF WITNESS: _____

OCCUPATION: _____

PRESENT ADDRESS: _____

EXECUTED as a Deed this day of 20____

GUARANTOR-2

SIGNED: _____

FULL NAME: _____

HOME ADDRESS: _____

DATE OF BIRTH: _____

SIGNATURE OF WITNESS: _____

NAME OF WITNESS: _____

OCCUPATION: _____

PRESENT ADDRESS: _____

EXECUTED as a Deed this day of 20____

Note: 1. If the Customer is a sole trader or partnership the Guarantor(s) should be some other suitable person(s).
2. If the Customer is a club or incorporated society the Guarantor(s) should be the president and secretary or other committee member

WARNING:THIS IS AN IMPORTANT DOCUMENT YOU SHOULD SEE YOUR OWN LAWYER OR ADVISOR BEFORE SIGNING IT

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Timberwood Panels Pty Ltd – Terms & Conditions of Trade

1. Definitions

1.1 "Timberwood Panels" means Timberwood Panels Pty Ltd,its successors and assigns or any person acting on behalf of and with the authority of Timberwood Panels Pty Ltd.

1.2 "Customer" means the person/s buying the Goods as specified in any invoice, document or order, and if there is more than one Customer is a reference to each Customer jointly and severally.

1.3 "Goods" means all Goods or Services supplied by Timberwood Panels to the Customer at the Customer's request from time to time (where the context so permits the terms 'Goods' or 'Services' shall be interchangeable for the other).

1.4 "Price" means the Price payable for the Goods as agreed between Timberwood Panels and the Customer in accordance with clause 4 below.

2. Acceptance

2.1 The Customer is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Customer places an order for or accepts delivery of the Goods.

2.2 These terms and conditions may only be amended with Timberwood Panels consent in writing and shall prevail to the extent of any inconsistency with any other document or agreement between the Customer and Timberwood Panels.

3. Change in Control

3.1 The Customer shall give Timberwood Panels not less than fourteen (14) days prior written notice of any proposed change of ownership of the Customer and/or any other change in the Customer's details (including but not limited to, changes in the Customer's name, address, contact phone or fax number/s, or business practice). The Customer shall be liable for any loss incurred by Timberwood Panels as a result of the Customer's failure to comply with this clause.

4. Price and Payment

4.1 At Timberwood Panels sole discretion the Price shall be either:
(a) as indicated on any invoice provided by Timberwood Panels to the Customer; or
(b) the Price as at the date of delivery of the Goods according to Timberwood Panels current price list; or
(c) Timberwood Panels quoted price (subject to clause 4.2) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days.

4.2 Timberwood Panels reserves the right to change the Price if a variation to Timberwood Panels quotation is requested.

4.3 At Timberwood Panels sole discretion a deposit may be required.

4.4 Time for payment for the Goods being of the essence, the Price will be payable by the Customer on the date/s determined by Timberwood Panels, which may be:
(a) thirty (30) days following the end of the month in which a statement is posted to the Customer's address or address for notices;
(b) the date specified on any invoice or other form as being the date for payment; or
(c) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Customer by Timberwood Panels.

4.5 Payment may be made by cash, cheque, bank cheque, electronic/on-line banking, credit card (plus a surcharge of up to one (1%) percent of the Price), or by any other method as agreed to between the Customer and Timberwood Panels.

4.6 Unless otherwise stated the Price does not include GST. In addition to the Price the Customer must pay to Timberwood Panels an amount equal to any GST Timberwood Panels must pay for any supply by Timberwood Panels under this or any other agreement for the sale of the Goods. The Customer must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Customer pays the Price. In addition the Customer must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.

5. Delivery of Goods

5.1 Delivery ("**Delivery**") of the Goods is taken to occur at the time that:
(a) the Customer or the Customer's nominated carrier takes possession of the Goods at Timberwood Panels address; or
(b) Timberwood Panels (or Timberwood Panels nominated carrier) delivers the Goods to the Customer's nominated address even if the Customer is not present at the address.

5.2 At Timberwood Panels sole discretion the cost of delivery is in addition to the Price.

5.3 The Customer must take delivery by receipt or collection of the Goods whenever they are tendered for delivery. In the event that the Customer is unable to take delivery of the Goods as arranged then Timberwood Panels shall be entitled to charge a reasonable fee for redelivery and/or storage.

5.4 Timberwood Panels may deliver the Goods in separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.

5.5 Any time or date given by Timberwood Panels to the Customer is an estimate only. The Customer must still accept delivery of the Goods even if late and Timberwood Panels will not be liable for any loss or damage incurred by the Customer as a result of the delivery being late.

6. Risk

6.1 Risk of damage to or loss of the Goods passes to the Customer on Delivery and the Customer must insure the Goods on or before Delivery.

6.2 If any of the Goods are damaged or destroyed following delivery but prior to ownership passing to the Customer, Timberwood Panels is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by Timberwood Panels is sufficient evidence of Timberwood Panels rights to receive the insurance proceeds without the need for any person dealing with Timberwood Panels to make further enquiries.

6.3 If the Customer requests Timberwood Panels to leave Goods outside Timberwood Panels premises for collection or to deliver the Goods to an unattended location then such Goods shall be left at the Customer's sole risk.

6.4 Timber is a natural product and as such may exhibit variations in texture, shade, colour, surface, finish, markings, veining, and contain natural fissures, occlusions, and indentations. Whilst Timberwood Panels will make every effort to match sales samples to the finished Goods Timberwood Panels accepts no liability whatsoever where such samples differ to the finished Goods supplied.

6.5 The Customer acknowledges that Goods supplied may:
(a) fade or change colour over time; and
(b) expand, contract or distort as a result of exposure to heat, cold, weather; and
(c) mark or stain if exposed to certain substances; and
(d) be damaged or disfigured by impact or scratching.

7. Title

7.1 Timberwood Panels and the Customer agree that ownership of the Goods shall not pass until:
(a) the Customer has paid Timberwood Panels all amounts owing to Timberwood Panels; and
(b) the Customer has met all of its other obligations to Timberwood Panels.

7.2 Receipt by Timberwood Panels of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised.

7.3 It is further agreed that:
(a) until ownership of the Goods passes to the Customer in accordance with clause 7.1 that the Customer is only a bailee of the Goods and must return the Goods to Timberwood Panels on request.
(b) the Customer holds the benefit of the Customer's insurance of the Goods on trust for Timberwood Panels and must pay to Timberwood Panels the proceeds of any insurance in the event of the Goods being lost, damaged or destroyed.
(c) the Customer must not sell, dispose, or otherwise part with possession of the Goods other than in the ordinary course of business and for market value. If the Customer sells, disposes or parts with possession of the Goods then the Customer must hold the proceeds of any such act on trust for Timberwood Panels and must pay or deliver the proceeds to Timberwood Panels on demand.
(d) the Customer should not convert or process the Goods or intermix them with other goods but if the Customer does so then the Customer holds the resulting product on trust for the benefit of Timberwood Panels and must sell, dispose of or return the resulting product to Timberwood Panels as it so directs.
(e) the Customer irrevocably authorises Timberwood Panels to enter any premises where Timberwood Panels believes the Goods are kept and recover possession of the Goods.
(f) Timberwood Panels may recover possession of any Goods in transit whether or not delivery has occurred.
(g) the Customer shall not charge or grant an encumbrance over the Goods nor grant nor otherwise give away any interest in the Goods while they remain the property of Timberwood Panels.
(h) Timberwood Panels may commence proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Customer.

8. Personal Property Securities Act 2009 ("PPSA")

8.1 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.

8.2 Upon assenting to these terms and conditions in writing the Customer acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in all Goods that have previously been supplied and that will be supplied in the future by Timberwood Panels to the Customer.

8.3 The Customer undertakes to:
(a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which Timberwood Panels may reasonably require to;
(i) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
(ii) register any other document required to be registered by the PPSA; or
(iii) correct a defect in a statement referred to in clause 8.3(a)(i) or 8.3(a)(ii);
(b) indemnify, and upon demand reimburse, Timberwood Panels for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any Goods charged thereby;
(c) not register a financing change statement in respect of a security interest without the prior written consent of Timberwood Panels;
(d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods in favour of a third party without the prior written consent of Timberwood Panels;
(e) immediately advise Timberwood Panels of any material change in its business practices of selling the Goods which would result in a change in the nature of proceeds derived from such sales.

8.4 Timberwood Panels and the Customer agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.

8.5 The Customer waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.

8.6 The Customer waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.

8.7 Unless otherwise agreed to in writing by Timberwood Panels, the Customer waives their right to receive a verification statement in accordance with section 157 of the PPSA.

8.8 The Customer must unconditionally ratify any actions taken by Timberwood Panels under clauses 8.3 to 8.5.

8.9 Subject to any express provisions to the contrary nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

9. Security and Charge

9.1 In consideration of Timberwood Panels agreeing to supply the Goods, the Customer charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Customer either now or in the future, to secure the performance by the Customer of its obligations under these terms and conditions (including, but not limited to, the payment of any money).

9.2 The Customer indemnifies Timberwood Panels from and against all Timberwood Panels costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising Timberwood Panels rights under this clause.

9.3 The Customer irrevocably appoints Timberwood Panels and each director of Timberwood Panels as the Customer's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 9 including, but not limited to, signing any document on the Customer's behalf.

10. Defects, Warranties and Returns, Competition and Consumer Act 2010 (CCA)

10.1 The Customer must inspect the Goods on delivery and must within seven (7) days of delivery notify Timberwood Panels in writing of any evident defect/damage, shortage in quantity, or failure to comply with the description or quote. The Customer must notify any other alleged defect in the Goods as soon as reasonably possible after any such defect becomes evident. Upon such notification the Customer must allow Timberwood Panels to inspect the Goods.

10.2 Under applicable State, Territory and Commonwealth Law (including, without limitation the CCA), certain statutory implied guarantees and warranties (including, without limitation the statutory guarantees under the CCA) may be implied into these terms and conditions (**Non-Excluded Guarantees**).

10.3 Timberwood Panels acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.

10.4 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, Timberwood Panels makes no warranties or other representations under these terms and conditions including but not limited to the quality or suitability of the Goods. Timberwood Panels liability in respect of these warranties is limited to the fullest extent permitted by law.

10.5 If the Customer is a consumer within the meaning of the CCA, Timberwood Panels liability is limited to the extent permitted by section 64A of Schedule 2.

10.6 If Timberwood Panels is required to replace the Goods under this clause or the CCA, but is unable to do so, Timberwood Panels may refund any money the Customer has paid for the Goods.

10.7 If the Customer is not a consumer within the meaning of the CCA, Timberwood Panels liability for any defect or damage in the Goods is:
(a) limited to the value of any express warranty or warranty card provided to the Customer by Timberwood Panels at Timberwood Panels sole discretion;
(b) limited to any warranty to which Timberwood Panels is entitled, if Timberwood Panels did not manufacture the Goods;
(c) otherwise negated absolutely.

10.8 Subject to this clause 10, returns will only be accepted provided that:
(a) the Customer has complied with the provisions of clause 10.1; and
(b) Timberwood Panels has agreed that the Goods are defective; and
(c) the Goods are returned within a reasonable time at the Customer's cost (if that cost is not significant); and
(d) the Goods are returned in as close a condition to that in which they were delivered as is possible.

10.9 Notwithstanding clauses 10.1 to 10.8 but subject to the CCA, Timberwood Panels shall not be liable for any defect or damage which may be caused or partly caused by or arise as a result of:
(a) the Customer failing to properly maintain or store any Goods;
(b) the Customer using the Goods for any purpose other than that for which they were designed;
(c) the Customer continuing the use of any Goods after any defect became apparent or should have become apparent to a reasonably prudent operator or user;
(d) the Customer failing to follow any instructions or guidelines provided by Timberwood Panels;
(e) fair wear and tear, any accident, or act of God.

10.10 Notwithstanding anything contained in this clause if Timberwood Panels is required by a law to accept a return then Timberwood Panels will only accept a return on the conditions imposed by that law.

11. Intellectual Property

11.1 The Customer agrees that Timberwood Panels may (at no cost) use for the purposes of marketing or entry into any competition, any documents, designs, drawings or Goods which Timberwood Panels has created for the Customer.

12. Default and Consequences of Default

12.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at Timberwood Panels sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.

12.2 If the Customer owes Timberwood Panels any money the Customer shall indemnify Timberwood Panels from and against all costs and disbursements incurred by Timberwood Panels in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, Timberwood Panels collection agency costs, and bank dishonour fees).

12.3 Without prejudice to any other remedies Timberwood Panels may have, if at any time the Customer is in breach of any obligation (including those relating to payment) under these terms and conditions Timberwood Panels may suspend or terminate the supply of Goods to the Customer. Timberwood Panels will not be liable to the Customer for any loss or damage the Customer suffers because Timberwood Panels has exercised its rights under this clause.

12.4 Without prejudice to Timberwood Panels other remedies at law Timberwood Panels shall be entitled to cancel all or any part of any order of the Customer which remains unfulfilled and all amounts owing to Timberwood Panels shall, whether or not due for payment, become immediately payable if:
(a) any money payable to Timberwood Panels becomes overdue, or in Timberwood Panels opinion the Customer will be unable to make a payment when it falls due;
(b) the Customer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
(c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.

13. Cancellation

13.1 Timberwood Panels may cancel any contract to which these terms and conditions apply or cancel delivery of Goods at any time before the Goods are delivered by giving written notice to the Customer. On giving such notice Timberwood Panels shall repay to the Customer any money paid by the Customer for the Goods. Timberwood Panels shall not be liable for any loss or damage whatsoever arising from such cancellation.

13.2 In the event that the Customer cancels delivery of Goods the Customer shall be liable for any and all loss incurred (whether direct or indirect) by Timberwood Panels as a direct result of the cancellation (including, but not limited to, any loss of profits).

13.3 Cancellation of orders for Goods made to the Customer's specifications, or for non-stocklist items, will definitely not be accepted once production has commenced, or an order has been placed.

14. Privacy Act 1988

14.1 The Customer agrees for Timberwood Panels to obtain from a credit reporting agency a credit report containing personal credit information about the Customer in relation to credit provided by Timberwood Panels.

14.2 The Customer agrees that Timberwood Panels may exchange information about the Customer with those credit providers either named as trade referees by the Customer or named in a consumer credit report issued by a credit reporting agency for the following purposes:
(a) to assess an application by the Customer; and/or
(b) to notify other credit providers of a default by the Customer; and/or
(c) to exchange information with other credit providers as to the status of this credit account, where the Customer is in default with other credit providers; and/or
(d) to assess the creditworthiness of the Customer.
The Customer understands that the information exchanged can include anything about the Customer's creditworthiness, credit standing, credit history or credit capacity that credit providers are allowed to exchange under the Privacy Act 1988.

14.3 The Customer consents to Timberwood Panels being given a consumer credit report to collect overdue payment on commercial credit (Section 18K(1)(h) Privacy Act 1988).

14.4 The Customer agrees that personal credit information provided may be used and retained by Timberwood Panels for the following purposes (and for other purposes as shall be agreed between the Customer and Timberwood Panels or required by law from time to time):
(a) the provision of Goods; and/or
(b) the marketing of Goods by Timberwood Panels, its agents or distributors; and/or
(c) analysing, verifying and/or checking the Customer's credit, payment and/or status in relation to the provision of Goods; and/or
(d) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Customer; and/or
(e) enabling the daily operation of Customer's account and/or the collection of amounts outstanding in the Customer's account in relation to the Goods.

14.5 Timberwood Panels may give information about the Customer to a credit reporting agency for the following purposes:
(a) to obtain a consumer credit report about the Customer;
(b) allow the credit reporting agency to create or maintain a credit information file containing information about the Customer.

14.6 The information given to the credit reporting agency may include:
(a) personal particulars (the Customer's name, sex, address, previous addresses, date of birth, name of employer and driver's licence number);
(b) details concerning the Customer's application for credit or commercial credit and the amount requested;
(c) advice that Timberwood Panels is a current credit provider to the Customer;
(d) advice of any overdue accounts, loan repayments, and/or any outstanding monies owing which are overdue by more than sixty (60) days, and for which debt collection action has been started;
(e) that the Customer's overdue accounts, loan repayments and/or any outstanding monies are no longer overdue in respect of any default that has been listed;
(f) information that, in the opinion of Timberwood Panels, the Customer has committed a serious credit infringement (that is, fraudulently or shown an intention not to comply with the Customer's credit obligations);
(g) advice that cheques drawn by the Customer for one hundred dollars ($100) or more, have been dishonoured more than once;
(h) that credit provided to the Customer by Timberwood Panels has been paid or otherwise discharged.

15. Building and Construction Industry Security of Payment Act 2002

15.1 At Timberwood Panels sole discretion, if there are any disputes or claims for unpaid Goods and/or Services then the provisions of the Building and Construction Industry Security of Payment Act 2002 may apply.

15.2 Nothing in this agreement is intended to have the affect of contracting out of any applicable provisions of the Building and Construction Industry Security of Payment Act 2002 of Victoria, except to the extent permitted by the Act where applicable.

16. General

16.1 The failure by Timberwood Panels to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect Timberwood Panels right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

16.2 These terms and conditions and any contract to which they apply shall be governed by the laws of Victoria in which Timberwood Panels has its principal place of business, and are subject to the jurisdiction of the Melbourne courts in that state.

16.3 Subject to clause 10 Timberwood Panels shall be under no liability whatsoever to the Customer for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by Timberwood Panels of these terms and conditions (alternatively Timberwood Panels liability shall be limited to damages which under no circumstances shall exceed the Price of the Goods).

16.4 The Customer shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Customer by Timberwood Panels nor to withhold payment of any invoice because part of that invoice is in dispute.

16.5 Timberwood Panels may license or sub-contract all or any part of its rights and obligations without the Customer's consent.

16.6 The Customer agrees that Timberwood Panels may amend these terms and conditions at any time. If Timberwood Panels makes a change to these terms and conditions, then that change will take effect from the date on which Timberwood Panels notifies the Customer of such change. The Customer will be taken to have accepted such changes if the Customer makes a further request for Timberwood Panels to provide Goods to the Customer.

16.7 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.

16.8 The Customer warrants that it has the power to enter into this agreement and has obtained all necessary authorisations to allow it to do so, it is not insolvent and that this agreement creates binding and valid legal obligations on it.

Please note that a larger print version of these terms and conditions is available from Timberwood Panels on request.

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